

WEATHER FORECAST  
Fair to-day; fair and warmer to-mor-  
row; moderate northwest winds.  
Highest temperature yesterday, 63; lowest, 42.  
Detailed weather reports on editorial page.

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NEW YORK, WEDNESDAY, MARCH 19, 1919.—Copyright, 1919, by the Sun Printing and Publishing Association.

IT SHINES FOR ALL

PRICE TWO CENTS.

## RUPPERT WILL BEGIN BREWING 2.75 P. C. BEER

New York Plant to Lead  
Way for General Resump-  
tion of Manufacture.

EHRET WILL FOLLOW

Other Firms Inclined to  
Hold Off Until Test Case  
Is Settled.

ROPER ASKS FOR ADVICE

Admits Knowing of No Spec-  
ific Law for One-half Per  
Cent. Ruling.

Brewers in this city made preparations yesterday to resume the making of beer with 2.75 per cent. alcohol. The Jacob Ruppert Brewing Company will be the first concern to start work under the opinion sanctioning such a course which was given to the Lager Beer Brewers' Board of Trade on Monday by Elihu Root and William D. Guthrie, special counsel in the light against prohibition. The Ruppert brewery will probably proceed on this basis to-morrow and the results are being watched by the rest of the brewers as the action of the Rupperts promises to develop the case.

Col. Ruppert planned to assert his right in this way to disregard the ruling of Commissioner Roper of the Internal Revenue Bureau on February 6, that any beverage containing an excess of half of one percent of alcohol was intoxicating. At the same time this was announced the Government was asked to cooperate with the defense in the test case brought by a minority stockholder against the James Everhardt's Breweries questioning the constitutionality of the war time prohibition act.

"We shall take no action with regard to the brewing of 2 1/2 per cent. beer until we receive instructions from the Bureau of Internal Revenue in Washington," said William H. Edwards, collector of internal revenue, in this city yesterday.

### Roper Asks for Advice.

From Washington came the statement from Commissioner Roper that "we will meet the issue when we come to it." Meanwhile he asked the department of justice whether the bureau has authority to enforce its rule against the sale of beer containing more than one-half of one percent of alcohol.

This decision was reached by the Commissioner after conferences with legal advisers and deputies of the department in charge of enforcing liquor laws. When the Commissioner found the various laws and food administration regulations were so complicated that it would require an authoritative legal decision to clarify the situation.

The recent ruling from the bureau provided that beer containing no more than 2 1/2 per cent. of alcohol could be brewed, but that before sale the alcoholic content must be reduced to not more than one-half of one percent. Revenue officials maintained that this percentage limit was based on precedent and on court decisions in enforcing State laws. It has been used for years in collecting taxes. Commissioner Roper admitted, however, that State laws vary and that he knew of no specific Federal law or court decision prescribing one-half of one percent as the limit of alcoholic content for non-intoxicating beer.

### Contention of Brewers.

The weight of this latest phase of the fight of the brewers rests on the point whether beer containing 2 1/2 per cent. of alcohol is intoxicating. The brewers maintain that it is non-intoxicating and are prepared to back up their claims with testimony by experts and with court decisions. Relying on assurances to that effect from the brewers' organization, Messrs. Root and Guthrie handed out their opinion that "the proclamation of the President dated January 20 and March 4, 1919, authorize the use of grain and other food products in the production of malt liquors which are not in fact intoxicating and that the act of November 21, 1918, does not apply to non-intoxicating beers."

It is to that act that the Anti-Saloon League leaders are pinning their faith. They contend that the phrase prohibiting the manufacture of "beer, wine or other intoxicating malt or vinous liquors" does away with the necessity of proving that beer containing more than one-half of one percent of alcohol is intoxicating, since beer is expressly mentioned in the prohibitory phrase. However, Wayne B. Wheeler, general counsel for the league, said at Washington yesterday that Congress would be urged to define intoxicating liquor before the measure went into effect on July 1.

### Lawyers' Interpretation.

As matters stand Messrs. Root and Guthrie hold that neither that act nor the law of August 10, 1917, "authorizes any executive officer of the Government to determine what malt liquors are in fact intoxicating, or to prescribe any fixed test or standard for determining when malt beverages shall be deemed intoxicating."

On this point Commissioner Roper looks for an opinion shortly from the solicitor of the Internal Revenue Bureau and Attorney-General Palmer, and as soon as their interpretations of the various statutes have been made, the Commissioner will determine what course to pursue. If those decisions uphold him in enforcing the 1/2 per cent. rule, revenue officers will be instructed to forbid the shipment of beer from breweries containing a larger amount of alcohol.

In case such a policy is undertaken in

### Continued on Sixth Page.

## U. S. to Lease 2 Islands for Canal's Protection

PANAMA, March 18.—The Cortagena correspondent of the Panama Star and Herald asserts that the United States is arranging for a ninety-nine year lease of two small islands in the Gulf of San Blas and New Providence, off the north coast of Colombia, near Colon. The payment, it is asserted, will be \$40,000,000. The islands contain small coconut plantations, and but little agriculture is carried on upon them.

The islands are considered to have military value, as they are immediately off the Caribbean entrance to the Panama Canal.

Official Accused in Fatal

Wreck Acquired in Less

Than Four Hours.

MOTORMAN'S TRIAL NEXT

Judge's Charge Hinged on Ob-

taining Competent Help

for Road.

At the conclusion of the trial Harry

E. Lewis, District Attorney, announced

that the next of the indicted B. R. T.

officials and employees to be tried

would be Edward Luciano, also known

as Anthony Lewis, the motorman of

the train which was wrecked. This

arrangement, however, was said by

Mr. Lewis to be only tentative, but

that it was likely the trial would begin

on March 26. Mr. Lewis also said that

he did not think the law would permit

the trial of Lewis on a second indict-

ment found by the Grand Jury in op-

position with the wreck.

Isaac R. Oeland, attorney for Lewis,

moved for the dismissal of the indict-

ment as soon as court convened yes-

terday morning. This motion was de-

nied by Justice Seeger, and Mr. Oeland

then suggested that the attorneys ab-

stain from summing up and submit the

case to the jury on the charge of the

court. District Attorney Lewis, how-

ever, refused to consent to this arrange-

ment, and Mr. Oeland then began his

address to the jury. He completed this

task shortly after noon, and then Mr.

Lewis made his plea for the State. Justice Seeger began his charge to the

jury at 3:10 o'clock.

"The defendant was charged to main-

tain safe operation of trains," said the

Justice, "and had the right to get com-

petent workmen by any lawful means.

The rules for the preparation and in-

struction of motormen were necessarily

somewhat haphazard. If the motorman

selected were competent, it makes no

difference that the rules of the com-

pany were violated. The company rules

are not statutes.

"The defendant, as superintendent of

the division, has charge of the transpor-

tation of passengers, including the in-

struction of motormen for trains. I charge

you that he was bound to exercise the

utmost and highest care as far as hu-

man foresight can go. If he failed in

that diligence in the appointment of

Lewis, endangering the health and

safety of passengers, and thereby as a

result, the character of his work was

impaired, you may find that the first count of the indictment is sustained.

"If the defendant knew Lewis was not

competent, I charge you that it was un-

lawful to appoint him. If he did not

know or omitted to exercise the highest

degree of care and failed to learn of his

incompetence, I charge you that he was

guilty of negligence. If Lewis was competent and knew how to operate the train, it matters not why or how he was selected. If he was

incompetent, the charge cannot be

borne out.

Justice Seeger cautioned the jury that

evidence introduced by the State tends

to show that five other alleged incom-

petent motormen were put in charge of

trains on the day of the wreck should

not be heard until the verdict, even if

the motorman had been proved incom-

petent, since they were required to de-

cide only whether Lewis was incompe-

tent.

At the conclusion of the trial, Justice

Seeger introduced by the State tend-

ing to show that five other alleged in-

competent motormen were put in charge

of trains on the day of the wreck should

not be heard until the verdict, even if

## G. O. P. LEADERS DECIDE TO KILL N. Y. INCOME TAX

In Conference at Albany

\$25,000,000 State Levy Is

Turned Down.

PRIMARIES TO STAY

Women on Executive Com-

mittee Insist on Passage

of Labor Reforms.

3 P. C. BEER BILL DOOMED

Calder Says Congress Will De-

fine State Rights as to

Prohibition Laws.

Special Despatch to The Sun.

ALBANY, March 18.—As a result of a

conference to-day of the executive

committee of the Republican State

Committee and a conference to-night

of the Republican members of the

State Senate, which was expected to

be far from harmonious before it

ended, predictions are being made that

the Legislature will kill:

The proposal of the Davenport

committee for levying a State in-

come tax to raise \$25,000,000 needed

for the State treasury.

The plan to pass a bill doing away

with the present direct primary

system of nominating State officers

and returning to an amended form

of selecting them at party State

conventions.

The Walters bill to permit con-

tinued sale of 3 per cent. beer for

home consumption notwithstanding

the prohibition amendment to the

Constitution, and await action for

prohibition of the sale of beer by

the United States Congress.

The so-called liberal labor legis-

lation for health insurance, minimum

wage and the eight hour day for

women.

Will H. Hays, chairman of the Na-

tional Republican Committee, was ex-

pected to be at the conference of the

executive committee, but wired that

he was unable to attend, saying:

"There is nothing so important for

the country's welfare as complete Rep-

ublican success. This is no time for

little things. Just as during the war,

we have no time for petty jealousies,

carping criticisms, pulling and haul-

ing. The Republican party accepts the

responsibility which comes with its new

opportunities and with our eyes solely

on the country's welfare we will meet

the new needs of the nation in the

wisdom of experience and the efficacy

of honest, zealous service.

"This is only possible if we all do our

part. The party in New York will not

fail the party in the nation."

Candidates Are on the Ground.

The omission of Mr. Hays to come

here for this meeting was attributed

by some politicians to a desire to keep

out of what might have turned into a

little Republican party fight in

case the executive committee should

have talked about "candidates," of whom

there are several in Albany at this

moment. His friends, however, say other

business made it impossible for him to

attend.

Great secrecy was sought by those at-

tending the executive committee con-

ference. They agreed to give out no

word of what happened, except the gen-

eral statement that everything was har-

monious; that all pending legislation

was discussed, and that a committee

composed of George A. Glynn, chairman

of the State committee, Herbrand H. Snell

of Potsdam, chairman of the executive

committee; Republican leader J. Henry

Walters of the Senate and Speaker Thad-

deus C. Sweet of the Assembly would

have more to do with the decision to let

the convention system of choosing can-

didates, for county committees all over

the State have gone on record as op-

posing the present primary system and

## Gen. Crowder Flies to Havana in Seaplane

HAVANA, March 18.—Major-

Gen. Enoch F. Crowder,

Judge Advocate General of the

American Army, who had been

invited to Cuba by the Govern-

ment to revise the election laws,

arrived here from Key West this

afternoon by seaplane. After

landing, Gen. Crowder went

aboard the American cruiser Cin-

cinnati.

Gen. Crowder left Key West

at 12:30 o'clock. The plane

carrying Gen. Crowder was es-

corted by another plane.

Gen. Crowder will remain in

Cuba for several days.

He will be accompanied by

Major-General Crowder.

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